

\_\_\_\_\_ BILL NO. \_\_\_\_\_

INTRODUCED BY \_\_\_\_\_

(Primary Sponsor)

A BILL FOR AN ACT ENTITLED: "AN ACT REMOVING FROM THE BOARD OF LIVESTOCK THE DISCRETION TO PAY INDEMNITY FOR THE DESTRUCTION OF AN ANIMAL AFFLICTED WITH BRUCELLOSIS; PROVIDING INDEMNITY AS A CLASS 2 ANIMAL FOR AN ANIMAL DESTROYED BECAUSE OF BRUCELLOSIS; REQUIRING THE STATE TO PAY INDEMNITY FOR AN ANIMAL AFFLICTED WITH BRUCELLOSIS IF THE FEDERAL GOVERNMENT DOES NOT PAY INDEMNITY; PROVIDING EXEMPTIONS FROM PAYMENT FOR OWNER NEGLIGENCE OR NONCOMPLIANCE WITH STATE BRUCELLOSIS TESTING AND MANAGEMENT REGULATIONS; AND AMENDING SECTIONS 81-2-201, 81-2-203, AND 81-2-209, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

**Section 1.** Section 81-2-201, MCA, is amended to read:

**"81-2-201. Classification of animals as to compensation for slaughter.** (1) Animals slaughtered under the direction of the department by order of the board are divided into two classes for the purposes of compensation:

(1)(2) Animals determined by the department to be affected with an incurable disease, ~~which that~~ are destroyed by order of the board, are designated as class 1 animals ~~of class 1~~, and unless otherwise provided, each of the animals ~~shall~~ must be paid for on the basis of 75% of its appraised value. The county in which the animal was owned at the time it was determined to be affected with an incurable disease is liable in part, ~~as later provided~~, for an indemnity to be paid for the animal. The ownership and county are determined by an affidavit of the owner of the animal or ~~his~~ the owner's agent. Each animal directed to be destroyed ~~shall~~ must be appraised by a representative or an authorized agent of the department with the owner agreeing in writing as to the value of the animal. When appraised, due consideration ~~shall~~ must be given to its breeding value as well as its dairy or meat value and the condition of the animal as to the disease and the present and probable effect of the disease on the animal. In the absence of an agreement, there ~~shall~~ must be appointed three competent, disinterested parties, one appointed by the department, one by the owner, and a third by the first two, to appraise each animal, taking into consideration its breeding value as well as its dairy or meat value and the condition of the animal as

1 to the disease and the present probable effect of the disease on the animal. The judgment of the majority is the  
2 judgment of the appraisers and is binding on both parties as the final determination of indemnity to be paid for  
3 each animal. The total compensation of each group of appraisers is limited to \$5 for the group appraisal, one-half  
4 of which ~~shall~~ must be paid by the department. The total amount of indemnity paid by the state and a county for  
5 an animal may not exceed the actual sound value of an animal of its class, and the total combined amount of  
6 indemnity paid for the animal by the state and a county may not exceed the sum of \$100 for a registered purebred  
7 animal or the sum of \$50 for a grade animal. Animals presented for appraisal as purebreds ~~shall~~ must be  
8 accompanied by their registration papers at the time of appraisal or they ~~shall~~ must be appraised as grades. If  
9 purebreds are less than 3 years old and not registered, the department may grant a reasonable time for their  
10 registration and presentation of their registration papers to the appraiser. Registration papers ~~shall~~ must  
11 accompany the claim for indemnity.

12 ~~(2)(3)~~ Animals of class Class 1 animals ~~shall~~ must be paid for on the basis of their full appraised value  
13 as determined in this section if no evidence of incurable disease is disclosed by autopsy, bacteriologic, serologic,  
14 microscopic, or other findings. The total combined amount of indemnity paid by the state and a county for an  
15 animal may not exceed the actual sound value of an animal of its class. The total combined amount of indemnity  
16 paid by the state and a county for the animal may not exceed \$100 for a registered purebred animal or \$50 for  
17 a grade animal.

18 ~~(3)(4)~~ Animals which that are determined by the department to be affected with or exposed to  
19 foot-and-mouth disease, rinderpest, contagious pleura pneumonia, surra, or other infectious, contagious,  
20 communicable, or dangerous disease, which is not of its nature necessarily fatal, and are destroyed by order of  
21 the department as a sanitary safeguard; are designated as class 2 animals, ~~of class 2~~ and each animal ~~shall~~ must  
22 be paid for on the basis of its full appraised value. The appraised value ~~shall~~ must be determined in the manner  
23 set out in subsection ~~(1) of this section~~ (2). The appraisal of the animals ~~shall~~ must be based on the meat, dairy,  
24 or breeding value of the animal, but ~~where~~ when appraisal is based on breeding value of the animal, ~~no an~~  
25 appraisal may not exceed three times its meat or dairy value. The total amount of indemnity paid by the state for  
26 an animal may not exceed the actual sound value of an animal in its class. ~~No An~~ indemnity for a class 2 animal  
27 may not be paid by a county. ~~In the case of destruction of an animal afflicted with brucellosis (Bang's disease),~~  
28 ~~no indemnity shall be paid for the animal unless the board, in its discretion, determines the best interests of this~~  
29 ~~state will be served by payment of an indemnity. In this event, the board shall set out standards of indemnity by~~  
30 ~~rules and may not pay in excess of \$100 for a registered purebred animal or \$50 for a grade animal. In all cases~~

1 where the federal government or agency other than the state compensates the owner in whole or in part for  
2 livestock destroyed as a sanitary safeguard, the amount of compensation from the state ~~shall~~ must be determined  
3 under 81-2-210.

4 (5) Animals determined by the department or the United States department of agriculture to be afflicted  
5 with brucellosis and destroyed as a sanitary safeguard are designated as class 2 animals. Pursuant to 81-2-203,  
6 each animal must be paid for on the basis of its full appraised value, as determined in the manner set out in  
7 subsection (2).

8 ~~(4)(6)~~ (6) Animals ~~which~~ that are injured or killed while they are being inspected or tested under an order  
9 of the department or its agent, ~~which~~ and that do not come within either class 1 or class 2; may be paid for at their  
10 full appraised value if the claim for the animal is recommended for payment at a meeting of the board. ~~Where~~  
11 When it is shown that the injury or death of the animal was not proximately due to the negligence of the owner  
12 or ~~his~~ the owner's agent, the whole claim, when approved, ~~shall~~ must be paid out of department funds. The limit  
13 of indemnity for an animal paid for by the state may not exceed that fixed by this section for class 2 animals ~~of~~  
14 class 2."

15  
16 **Section 2.** Section 81-2-203, MCA, is amended to read:

17 **"81-2-203. Indemnity -- from what funds paid. (1)** In payment for animals or property destroyed by  
18 order of the department, the state shall pay one-half of the indemnity out of the money at the disposal of the  
19 department. The county liable in part for the indemnity shall pay one-half of the total indemnity out of the general  
20 fund of the county.

21 (2) Except as provided in 81-2-209, the state shall pay the total amount of the indemnity for an animal  
22 afflicted with brucellosis and destroyed by order of the department or the United States department of agriculture  
23 if the federal government does not compensate the owner of the animal for the loss."

24  
25 **Section 3.** Section 81-2-209, MCA, is amended to read:

26 **"81-2-209. When no indemnity. (1)** The owner of an animal or property destroyed under this chapter  
27 is entitled to indemnity, except in the following cases:

28 (a) animals belonging to the United States;

29 (b) animals brought into this state ~~which~~ that violate this chapter or rules of the department;

30 (c) animals ~~which~~ that the owner or claimant knew to be diseased or had notice of the disease at the time

1 they came into ~~his~~ the owner's or the claimant's possession;

2 (d) animals ~~which that~~ had the disease for which they were slaughtered or ~~which were~~ destroyed  
3 because of exposure to the disease at the time of their arrival in this state. However, a class 2 animal shipped  
4 into this state under department rules and accompanied by the proper certificate of health from a recognized state  
5 or federal veterinarian may be paid for when payment is authorized by the department.

6 (e) animals ~~which that~~ have not been in this state for at least 120 days before the discovery of the  
7 disease; ~~however~~ However, class 2 animals ~~which that~~ have not been in the state for 120 days may be paid for  
8 when payment is authorized by the department;\_

9 (f) when the owner or agent has not used reasonable diligence to prevent disease or exposure to  
10 disease;

11 (g) when the owner or agent has not complied with the rules of the department with respect to animals  
12 condemned;

13 (h) when animals condemned are not destroyed within 60 days after they are determined to be affected  
14 with or exposed to a disease ~~which that~~ requires them to be destroyed by order of the department;\_ or

15 (i) when the owner or agent is negligent or willfully noncompliant in regard to Montana brucellosis testing  
16 and management regulations.

17 (2) ~~No compensation~~ Compensation or indemnity will not be paid for the destruction of livestock affected  
18 with tuberculosis or other infectious, contagious, communicable, or dangerous disease unless the entire herd or  
19 band of affected livestock is under the supervision of the department for the eradication of the disease."

20 - END -